

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:00cr83
)	
vs.)	
)	ORDER
JUSTIN J. ALLEE,)	
)	
Defendant.)	

This matter is before the court on filing no. 283, a Motion filed on April 13, 2005 by the defendant, Justin J. Allee. The defendant requests an extension of time in which to file a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 ("§ 2254 petition") in this court regarding his state-court conviction(s). 28 U.S.C. § 2254 and the rules of court do not authorize a district court to extend the deadline for filing a § 2254 petition in order to escape the bar of the statute of limitations enacted by Congress.

However, in light of Mr. Allee's expressed intent to file a § 2254 petition, I am willing to direct the Clerk of Court to docket filing no. 283 as a § 2254 petition and to open a new case with a filing date of April 13, 2005. I am also willing to grant Mr. Allee leave to amend that § 2254 petition.

However, I will not take that course unless (a) Mr. Allee requests in writing that I do so, and (b) Mr. Allee sends the court either the \$5 filing fee or an Application to Proceed In Forma Pauperis ("IFP application"), both by no later than May 13, 2005. If the filing fee or an application to proceed IFP has been received by the court on or before May 13, 2005, the documents will be filed as a new case with a filing date retroactive to the date of filing no. 283, and a judge will be drawn to preside over the case.

However, if the court has not received either the filing fee or an application to proceed IFP by May 13, 2005, no further action will be taken in respect to filing no. 283. The Clerk of Court shall send Mr. Allee the form for an IFP application.

SO ORDERED.

DATED this 25th day of April, 2005.

BY THE COURT:

/s/ Joseph F. Bataillon
Chief District Judge